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5 Attorneys for Plaintiffs  
6 HTC CORPORATION and  
HTC AMERICA, INC.  
7

8 UNITED STATES DISTRICT COURT  
9 NORTHERN DISTRICT OF CALIFORNIA  
10 SAN JOSE DIVISION  
11

12 HTC CORPORATION and HTC AMERICA,  
INC.,

13 Plaintiffs,

14 v.

15 TECHNOLOGY PROPERTIES LIMITED,  
16 PATRIOTIC SCIENTIFIC CORPORATION  
and ALLIACENSE LIMITED,

17 Defendants.  
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Case No. 5:08-CV-00882 JF

(Related to Case Nos. 5:08-cv-05398 JF  
and 5:08-cv-00877 JF)

**DECLARATION OF KYLE D. CHEN  
IN SUPPORT OF HTC'S  
OPPOSITION TO DEFENDANTS'  
MOTIONS FOR LEAVE TO AMEND  
INFRINGEMENT CONTENTIONS  
FOR U.S. PATENT NOS. 5,530,890  
AND 5,440,749**

Date: April 22, 2011

Time: 9:00 a.m.

Place: Courtroom 3, 5th Floor

Judge: Hon. Jeremy Fogel

1 I, Kyle D. Chen, declare:

2 1. I am an attorney at the law firm of Cooley LLP, counsel in this action for Plaintiffs  
3 HTC Corporation and HTC America, Inc. (collectively "HTC"). I make this declaration in  
4 support of HTC's Opposition to Technology Properties Ltd.'s, Patriot Scientific Corp.'s and  
5 Alliacense Ltd.'s (collectively "TPL's") Motions for Leave To Amend Infringement Contentions  
6 for U.S. Patent Nos. 5,530,890 ("the '890 patent") and 5,440,749 ("the '749 patent"). I have  
7 personal knowledge of the facts contained within this declaration, and if called as a witness, could  
8 testify competently to the matters contained herein.

9 2. TPL served its Disclosure of Asserted Claims and Preliminary Infringement  
10 Contentions in December 2008 ("Original Contentions"), of which a true and correct copy is  
11 attached hereto as Exhibit A. The Original Contentions assert claims 1, 2, 7 and 9 of the '890  
12 patent, and claims 1, 9, 18, 23, and 24 of the '749 patent.

13 3. TPL served its Amended Preliminary Infringement Contentions for the '890 Patent  
14 on March 1, 2011 ("March 2011 Contentions for the '890 patent"), of which a true and correct  
15 copy is attached hereto as Exhibit B. The March 2011 Contentions for the '890 patent  
16 additionally accuse the following 11 products of infringing the '890 patent (March 2011  
17 Contentions for the '890 patent at 3-4):

- 18 • Aria
- 19 • Desire
- 20 • EVO 4G
- 21 • EVO Shift 4G
- 22 • HD7
- 23 • Inspire 4G
- 24 • Surround
- 25 • T-Mobile G2
- 26 • T-Mobile myTouch
- 27 • Thunderbolt
- 28 • Wildfire

1           4.       TPL served its Amended Preliminary Infringement Contentions for the '749 Patent  
 2 on March 24, 2011 ("March 2011 Contentions for the '749 patent"), of which a true and correct  
 3 copy is attached hereto as Exhibit C. The March 2011 Contentions for the '749 patent  
 4 additionally accuse the following 13 products of infringing the '749 patent (March 2011  
 5 Contentions for the '749 patent at 4):

- 6           • Aria
- 7           • Arrive
- 8           • Desire
- 9           • EVO 4G
- 10          • EVO Shift 4G
- 11          • Freestyle
- 12          • HD7
- 13          • Inspire 4G
- 14          • Surround
- 15          • T-Mobile G2
- 16          • T-Mobile myTouch
- 17          • Thunderbolt
- 18          • Wildfire

19          5.       Attached to this declaration as Exhibit D is a true and correct copy of an HTC  
 20 press release dated June 14, 2010 announcing the HTC Aria, which I downloaded from HTC's  
 21 website at [www.htc.com](http://www.htc.com) on April 7, 2011. The June 14, 2010 press release announced that the  
 22 HTC Aria "will be available exclusively at AT&T beginning June 20."

23          6.       Attached to this declaration as Exhibit E is a true and correct copy of an HTC  
 24 press release dated February 10, 2010 announcing the HTC Desire, which I downloaded from  
 25 HTC's website at [www.htc.com](http://www.htc.com) on April 7, 2011. The February 10, 2010 press release  
 26 announced that the "HTC Desire is powered by a one gigahertz Snapdragon processor . . . ."

27          7.       Attached to this declaration as Exhibit F is a true and correct copy of an Internet  
 28 article dated August 18, 2010 reviewing the HTC Desire, which I downloaded from the Internet at

1 [www.cnet.com](http://www.cnet.com) on April 7, 2011. The August 18, 2010 article shows that the HTC Desire was  
2 released in the U.S. on August 27, 2010.

3 8. Attached to this declaration as Exhibit G is a true and correct copy of an HTC  
4 press release dated March 23, 2010 announcing the HTC EVO 4G, which I downloaded from  
5 HTC's website at [www.htc.com](http://www.htc.com) on April 7, 2011. The March 23, 2010 press release announced  
6 that the HTC EVO 4G features "a 1GHz Qualcomm® Snapdragon™ processor" and that  
7 "[c]ustomers will be able to purchase HTC EVO 4G through all Sprint channels and through  
8 national retail partners, RadioShack, Best Buy and Walmart, this summer. Pricing will be  
9 announced at a later date. Pre-registration begins today at [www.sprint.com/evo](http://www.sprint.com/evo)."

10 9. Attached to this declaration as Exhibit H is a true and correct copy of an Internet  
11 article dated June 4, 2010 reviewing the HTC EVO 4G, which I downloaded from the Internet at  
12 [www.cnet.com](http://www.cnet.com) on April 7, 2011. The June 4, 2010 article shows that the HTC EVO 4G was  
13 released in the U.S. on June 4, 2010.

14 10. Attached to this declaration as Exhibit I is a true and correct copy of an HTC press  
15 release dated October 11, 2010 announcing "HTC 7 Surround . . . HTC 7 Pro and HTC HD7,"  
16 which I downloaded from HTC's website at [www.htc.com](http://www.htc.com) on April 7, 2011. The October 11,  
17 2010 press release announced that these HTC products "will be available through mobile  
18 operators and retailers across major European, Asia-Pacific and North American markets from  
19 late October."

20 11. Attached to this declaration as Exhibit J is a true and correct copy of an Internet  
21 article dated November 5, 2010 reviewing the HTC HD7, which I downloaded from the Internet  
22 at [www.cnet.com](http://www.cnet.com) on April 7, 2011. The November 5, 2010 article shows that the HTC HD7 was  
23 released in the U.S. on November 8, 2010.

24 12. Attached to this declaration as Exhibit K is a true and correct copy of an Internet  
25 article dated October 20, 2010 reviewing the HTC Surround, which I downloaded from the  
26 Internet at [www.cnet.com](http://www.cnet.com) on April 7, 2011. The October 20, 2010 article shows that the HTC  
27 Surround was released in the U.S. on November 8, 2010.

28 13. Attached to this declaration as Exhibit L is a true and correct copy of an HTC

1 press release dated September 9, 2010 announcing “the T-Mobile® G2™,” which I downloaded  
 2 from HTC’s website at [www.htc.com](http://www.htc.com) on April 7, 2011. The September 9, 2010 press release  
 3 announced that the T-Mobile G2 features a “Snapdragon™ MSM7230 mobile processor” and  
 4 “will be available in the U.S. exclusively from T-Mobile, and current T-Mobile customers will  
 5 have the opportunity to preorder the G2 in limited quantities later this month.”

6 14. Attached to this declaration as Exhibit M is a true and correct copy of an Internet  
 7 article dated October 5, 2010 reviewing the T-Mobile G2, which I downloaded from the Internet  
 8 at [www.cnet.com](http://www.cnet.com) on April 7, 2011. The October 5, 2010 article shows that T-Mobile® G2™ was  
 9 released in the U.S. on October 6, 2010.

10 15. Attached to this declaration as Exhibit N is a true and correct copy of an Internet  
 11 article dated November 1, 2010 reviewing the T-Mobile MyTouch 4G, which which I  
 12 downloaded from the Internet at [www.cnet.com](http://www.cnet.com) on April 7, 2011. The November 1, 2010 article  
 13 shows that the T-Mobile MyTouch 4G was released in the U.S. on November 3, 2010.

14 16. Attached to this declaration as Exhibit O is a true and correct copy of an HTC  
 15 press release dated May 17, 2010 announcing “HTC Wildfire™,” which I downloaded from  
 16 HTC’s website at [www.htc.com](http://www.htc.com) on April 7, 2011.

17 17. Attached to this declaration as Exhibit P is a true and correct copy of an Internet  
 18 article dated November 11, 2010 reviewing the HTC Wildfire, which I downloaded from the  
 19 Internet at [www.cnet.com](http://www.cnet.com) on April 7, 2011. The November 11, 2010 article shows that the HTC  
 20 Wildfire was released in the U.S. on October 28, 2010.

21 18. The U.S. Patent and Trademark Office issued a final rejection of claims 1-8 of the  
 22 ‘890 patent on April 29, 2010 in the *Ex Parte* Reexamination Control No. 90/009,388, of which a  
 23 true and correct copy is attached hereto as Exhibit Q.

24 19. The U.S. Patent and Trademark Office issued a non-final rejection of claims 1-20  
 25 and 30-54 of the ‘749 patent on November 19, 2009 in the *Ex Parte* Reexamination Control No.  
 26 90/010,520, of which a true and correct copy is attached hereto as Exhibit R.

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1 I declare under penalty of perjury that the foregoing is true and correct. Executed on April  
2 8, 2011 in Palo Alto, California.

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4 /s/ Kyle D. Chen

Kyle D. Chen

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